

Internal Revenue Service
Director, Exempt Organizations
Rulings and Agreements

Department of the Treasury
P.O. Box 2508 - Room XXXX
Cincinnati, Ohio 45201

Number: 200911036
Release Date: 3/13/2009

Date: December 19, 2008

Employer Identification Number:

Person to Contact - ID#:

Contact Telephone Numbers:
Phone
Fax

LEGEND

UIL 4945.04-04

B= Foundation
C= City
x= \$ amount
y= \$ amount
z= \$ amount

Dear :

We have considered your request for advance approval of your grant-making programs under section 4945 (g)(1) of the Internal Revenue Code, dated December 11, 2007.

Our records indicate that the B was recognized as exempt from Federal income tax under section 501(c)(3) of the Code and that it is classified as a private foundation as defined in section 509(a).

Your letter indicates that the B will be awarding scholarships in the amount of x to one deserving student payable annually for four years in y increments or to two deserving students annually for four years in z increments. Only students who are residents of C will be eligible to apply. The scholarship program will be publicized in the local newspaper and in the local schools of C. The selection of a recipient(s) each year will be based on the following criteria: financial need, scholastic record, extracurricular activities, and community involvement. There shall be no discrimination based upon race, color, creed, religion, or sex.

The selection process will involve prescreening by a committee of the Board of Trustees. The committee will bring its recommendation to the full Board for final action. Committee members must be currently serving members of the Board and can be replaced by the President of the Foundation. Members of the Board and their relatives are ineligible to apply. The scholarship application will request information regarding family relationships.

Eligibility requirements for applicants are:

- A copy of official high school transcript
- If accepted to an educational institution – a copy of acceptance/award letter with details of any awards granted. If not available, then a detailed financial award estimate
- A copy of resume as described in the grant application
- A copy of financial records of individual applicant and parents'/guardians' most recent tax returns
- Any other applications for federal student aid

The funds will be paid directly to an accredited educational institution on behalf of the student. Transcripts of the students will be provided annually and reviewed to determine if the recipient has maintained at least a 3.0 grade point average. Each educational institution will be asked to notify the Foundation if an award recipient terminates his or her studies and to refund the Foundation's proportionate share of any refund made to the student.

The organization agrees to maintain records which include the following:

- a. Information used to evaluate the qualification of potential grantees;
- b. Identification of the grantees (including any relationship of any grantee to the private foundation), the amount and purpose of each grant; and
- c. All grantee reports and other follow-up data obtained in administering the private foundation's grant program.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or

- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Based on the information submitted and assuming your scholarship program will be conducted as proposed with objectivity and nondiscrimination in awarding grants, we determined that your procedures in awarding scholarship grants comply with the requirements of section 4945(g)(1) of the Code and that scholarships granted according to these procedures will not be "taxable expenditures" within the meaning of section 4945(d)(3).

In addition, we have determined that awards made under your procedures are excludable from the gross income of the recipients subject to the limitations provided by section 117 of the Code.

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your grant-making procedures is a one-time approval of your system standards and procedures that will result in grants which meet the requirements of section 4945(g)(1) of the Code. **This determination only covers the grant programs described above.** Thus, approval shall apply to succeeding grant programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and case histories so that any or all grant distributions can be substantiated upon request by the Internal Revenue Service.

This determination is directed only to the organization that requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Robert Choi
Director of Exempt Organizations
Rulings and Agreements